

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	
v.)	Cr. No. 2:15-cr-20043-JTF-dkv
)	
)	
CHARLES TIGNER,)	
)	
Defendant.)	
)	

**ORDER ADOPTING THE MAGISTATE JUDGE’S REPORT AND
RECOMMENDATION DENYING DEFENDANT’S MOTION TO SUPPRESS**

Before the Court is the Defendant Charles Tigner’s Motion to Suppress Evidence and Statements filed on October 2, 2015. (ECF No. 39). On October 5, 2015, the undersigned court referred the motion to the United States Magistrate Judge for a report and recommendation pursuant to 28 U.S.C. 636(b)(1)(B). (ECF No. 40). On October 15, 2015, the Government filed its Response to Defendant’s motion. (ECF No. 41). On December 2, 2015, the Magistrate Judge conducted an evidentiary hearing wherein testimony of one Government witness, MPD Detective Lawrence Richardson, and arguments of counsel were heard. The matter was taken under advisement. (ECF No. 46).

On January 4, 2016, the Magistrate Judge issued her report and recommendation that Defendant’s motion to suppress be denied. (ECF No. 47). Neither party has filed any objections to the report and recommendation. Therefore, the Court finds the Magistrate Judge’s report and

recommendation should be adopted in full and the Defendant's Motion to Suppress Statements and Evidence Denied.

STANDARD OF REVIEW

A United States District Court Judge may refer certain dispositive motions, including motions to dismiss indictments, to a United States Magistrate Judge for submission of proposed findings of fact and conclusions of law for disposition by the District Judge pursuant to 28 U.S.C. §636(b); *U.S. v. Houston*, Case No. 3:13-10-DCRF, 2013 WL 3975405 *1 (E.D. Tenn. July 29, 2013). The District Judge may accept, reject or modify in whole or in part, the Magistrate's proposed findings and recommendations. *U.S. v. Raddatz*, 447 U.S. 667, 673-675 (1980), *reh'g den.*, 448 U.S. 916 (1980). See 28 U.S.C. § 636 (b)(1)(B). While most actions by a Magistrate Judge are reviewed for clear error, dismissal of indictments and motions to suppress evidence are among the motions in criminal matters that are subject to *de novo* review. See *U.S. Fidelity and Guarantee Co. v. Thomas Solvent Co*, 955 F.2d 1085, 1088 (6th Cir. 1992). In this case no objections were submitted.

ANALYSIS

The Court adopts the Magistrate Judge's proposed findings of fact in this case. Tigner asserts in his motion to suppress that any statements made by him after he was taken into custody and read his Miranda rights must be suppressed. (ECF No. 39, pp. 2-3). The Government asserts that Tigner voluntarily reinitiated conversation with the police officers after invoking his right to counsel. (ECF No. 41, pp. 3-4). The Magistrate Judge determined that Tigner was properly informed of his Miranda rights both verbally and in writing; he understood these warnings; and that his statements following the Miranda warnings were unsolicited without police coercion or intimidation. *Oregon v. Bradshaw*, 462 U.S. 1039, 1045 (1983). The Magistrate Judge also

properly determined that any statements made the officers to Tigner regarding the unrelated matter were not interrogation. After reviewing the motion to suppress, exhibits thereto, statements of counsel and the uncontradicted witness' testimony, the Magistrate Judge recommended that Defendant's motion to suppress be denied because there were no Fifth Amendment violations while Tigner was in custody and he implicitly waived his Miranda rights.

After a *de novo* review of the Magistrate Judge's report and recommendation and the entire record in this case, the Court finds that the Magistrate Judge's report and recommendation should be adopted. Accordingly, Defendant's Motion to Suppress Statements and Evidence, ECF No. 39, is DENIED.

IT IS SO ORDERED on this 25th day of January, 2016.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE